

REMARKS/ARGUMENTS

Claims 2-25 and 33-35 remain in the application.

Claims 3, 5-9, 11-15, 17, and 19-25 have been cancelled.

Claims 2, 4, 10, 16, 18, and 33-35 are amended.

Claims 46-56 are newly added.

1. Claims 2-11, 15-22, 24, 25, and 33-35 were rejected under 35 USC 103(a) over EBAY in view of Prince. EBAY (i.e., a fairly current printout of EBAY website pages) is notably long subsequent to Applicant's conception, reduction to practice, and application filing dates. The Examiner purports that EBAY discloses that "Company responds to the comment left by the buyer (enclosure 4)". The Examiner then further purports that, although EBAY is subsequent to Applicant's earliest priority dates, the Prince reference (having an earliest date of April 21, 1999, as evidenced by the copyright registration provided by the Examiner) somehow indicates/implies that the feedback comment and response implementation shown by the long subsequent EBAY reference must relate back to the date of Prince.

In view of Applicant's reduction to practice date of at least as early as April 9, 1999 (per the Declaration of Nicholas D. Evans, in the USPTO file), Applicant's actual reduction to practice occurred prior to the earliest dates of any of the purported references. Applicant is, thus, posited with a situation where Applicant must prove a negative (i.e., that EBAY didn't have the feedback comment and response implementation prior to Applicant's reduction to practice), even though Applicant has clearly shown priority over the "evidencable" dates of the purported references.

Applicant again submits that Applicant's claimed inventions are not properly rejectable on the purported references, which (at best) provide only that there could or might be a possibility that *something* preceded Applicant's reduction to practice – it's certainly not evidentially clear or even probable from the dates of the references, however, that those references indicate what the Examiner purports. Further support for Applicant's disagreement with the stretches and hindsight being maintained by the Examiner includes the attached copies from www.archive.org of historical EBAY website pages. In these pages (copies included with this amendment), it is very noteworthy that at some point in time, after May 5, 1999, EBAY first added to its website a link to any "Feedback Forum" or the like.

Moreover, admittedly the copies of Prince supplied by the Examiner in the file describe some comment and feedback review possibilities, however, the copyright search information included with Prince indicates that Prince was apparently significantly revised in the time period after April 21, 1999 and by September 15, 1999. The EBAY historical websites available from archive.org show that the April 28 and May 5, 1999 EBAY website pages did not have any "Feedback Forum" link or the like. Then, the same source shows that the EBAY website pages first included a "Feedback Forum" link in September 21, 1999. These dates of the revision to Prince and the revision to the EBAY website pages to include the "Feedback Forum" closely coincide. It seems very likely that Prince in April 21, 1999 did not include any references to any feedback concepts; and that EBAY only had any such concepts by as late as September, 1999 (the date of the second Prince and the later EBAY pages).

Another notable point about the copies of Prince supplied by the Examiner is found on the page numbered 428 thereof, where it states as follows:

“Now, go back to Figure 23-6; there, you’ll see a link at the bottom of the screen titled *Respond to comments*. **This is a new feature at eBay**, and it lets a user respond to a comment that was left by another user (bold emphasis not in original).”

Even if the copies of Prince supplied by the Examiner are from the earliest Prince publication of April 21, 1999, it is still subsequent to Applicant’s actual reduction to practice and there is a very specific statement there expressing that the *respond to a comment* is a NEW FEATURE AT EBAY.

Under all of these unanswered/unanswerable questions about the dating of the purported references, the sequence at eBay of what it was and included, and the content of the earliest Prince publication, the certainty of Applicant’s actual reduction to practice prior to the evidenced dates is the only point that is not merely an assumption/conjecture.

Notwithstanding that Applicant has many issues with the propriety of the use being made of the purported references in the rejections, Applicant has hereby sought to amend claims and add new claims that further state particular and distinct patentable aspects of Applicant’s claimed inventions.

In particular, although not believed or intended to be in any way further limiting to the scope of claims previously presented, Applicant has amended the claims to further clarify that, in the claimed systems and methods, Applicant includes the customer comment, customer service provider notification of the comment, and customer service provider response to the comment. These are not evidenced by the purported references

as of the applicable priority dates of Applicant, and are neither taught nor suggested by them or by them in combination.

Similar to the amendments to the claims hereby amended, Applicant's newly added claims more clearly point out these elements of Applicant's claimed inventions.

2. Claims 12-14 and 23 were rejected under 35 USC 103(a) over eBay in view of Prince, further in view of Himmel. Himmel is cited for the proposition of HTML, JAVA, and ActiveX, as well as XML.

The particular claims of the rejection have all been cancelled. The cancellations were made solely because of the distinctions in the amended and new claims, as discussed in 1 above. Rather than confuse the prosecution through dependent claims addressing various codes/languages, Applicant has chosen to press the broader patentable aspects that can not be properly rejected on the grounds of the purported references that are subsequent to Applicant's critical dates.

Applicant's cancellation of claims covered by this rejection, as well as all other cancellations that have been made, should not be construed or interpreted as any forfeiture or concession by Applicant, in any manner. Applicant has cancelled claims, which Applicant continues to submit are patentable, in order to avoid confusion and to further the prosecution on the broader and more basic aspects of patentability for Applicant. Therefore, the claim cancellations are without prejudice and should not be considered in any way as having estoppel or limiting effect on Applicant's rights and scope of patentability.

CONCLUSION

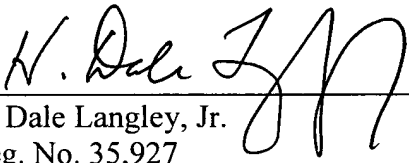
Applicant requests reconsideration of all rejections, and allowance of all amended and newly added claims.

Should this response be considered inadequate or non-responsive for any reason, or should the Examiner have any questions, comments or suggestions that would expedite the prosecution of the present case to allowance, Applicants' undersigned representative earnestly requests a telephone conference at (512) 477-3830.

Please charge any additional fees or credit any overpayment to Deposit Account No. 50-1350.

Respectfully submitted,

Dated: November 23, 2005

By: 
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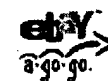
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